

**Frank Melbourn - Agenda: Written Comments to Agenda Item 9 for September 14, 2005 RWQCB Meeting**

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**From:** "Ngugi, Nancy" <NNgugi@semprautilities.com>  
**To:** <rb9agenda@waterboards.ca.gov>  
**Date:** 8/31/2005 1:44 PM  
**Subject:** Agenda: Written Comments to Agenda Item 9 for September 14, 2005 RWQCB Meeting  
**CC:** "Koken, George Scott" <SKoken@semprautilities.com>, "Jacobsen, Fred" <FJacobsen@semprautilities.com>, "Ngugi, Nancy" <NNgugi@semprautilities.com>, "Haines, Deanna" <DHaines@semprautilities.com>

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**Item No. 9**  
**Doc. 7**

**Written Comments to Agenda Item 9 for September 14, 2005 RWQCB Meeting**

I am submitting this written comment on behalf of San Diego Gas & Electric Company (SDG&E) in connection with Agenda Item 9 for the September 14, 2005 State of California Regional Water Quality Control Board San Diego Region (Regional Board) meeting. Pursuant to Agenda Item 9, the Regional Board will consider accepting a proposed settlement of liability against JRMC Real Estate, Inc. and the City of Escondido in response to Administrative Civil Liability Complaint Nos. R9-2005-0059 and 0097.

SDG&E does not object to the terms of the proposed settlement agreement as set forth in the Offer of Settlement submitted by S. Wayne Rosenbaum (Offer of Settlement). However, **SDG&E believes that Background Paragraph 2 of the Offer of Settlement is misleading and inaccurate for the reasons set forth in the attached letter.** Accordingly, SDG&E respectfully requests that, prior to any approval of the Offer of Settlement, the Regional Board amend Background Paragraph 2 of the Offer of Settlement as follows:

JRMC ~~has corrected~~ **has modified** its Initial NOI by filing a "Change of Information" statement on or about August 8 2005, **to remove from the Initial NOI three properties owned by San Diego Gas & Electric Company ("SDG&E") and one property owned by JRMC over which SDG&E holds an easement interest to accurately indicate the portions of the ERTC under its ownership or control, as more fully described by Exhibit 2 (hereinafter "Revised NOI").** **Because JRMC is responsible for ongoing construction activities on the properties removed from the Initial NOI, JRMC submitted new NOIs for such properties on or about August 16, 2005.**

Thank you for your attention to this request.

Sincerely,

George Scott Koken  
Water quality Supervisor  
Environmental Services  
SDG&E  
858-637-3727  
skoken@semprautilities.com

<<RWQCB & SWRCB letters.pdf>>



San Diego Gas & Electric  
8335 Century Park Court  
San Diego, CA 92123



August 15, 2005

File:

SWRCB Construction Stormwater Permitting Unit Supervisor  
State Water Resources Control Board  
Division of Water Quality  
Attn: Storm Water Section  
1001 I Street  
Sacramento, CA 95814

Subject: **JRMC Development in Escondido, California**  
**Stormwater Change of Information and Notice of Intent Submittals**

Dear SWRCB Construction Stormwater Permitting Unit Supervisor:

Enclosed, for your information, you will find a copy of a letter delivered to the San Diego Regional Water Quality Control Board to clarify San Diego Gas & Electric Company's understanding of three construction stormwater permitting filings that J.R.M.C. Real Estate, Inc. ("JRMC") has submitted or will submit to the State Water Resources Control Board ("SWRCB"). These three filings consist of a Change of Information and two SWRCB Construction Stormwater Permit (Order 99-08-DWQ) Notices of Intent regarding a business park JRMC is developing (i.e., Escondido Research and Technology Center) in Escondido, California.

The COI is for WDID# 9 37C320081.

If you have any questions regarding this information, please contact me at (858) 637-3723 or Lisa Gomez at (619) 699-5194.

Sincerely,

Fredrik J. Jacobsen  
Principal Environmental Specialist, Water Quality

Enclosure

cc: Lisa P. Gomez (Sempra Energy)



San Diego Gas & Electric  
8335 Century Park Court  
San Diego, CA 92123

A  Semptra Energy utility

August 15, 2005

File: 2005 AUG 15 P 12:36

2005 AUG 15 P 12:36  
WATER QUALITY  
CONTROL BOARD

Mr. Frank Melbourn  
California Regional Water Quality Control Board  
San Diego Region 9  
9174 Sky Park Court, Suite 100  
San Diego, Ca 92123

Subject: **JRMC Development in Escondido, California**  
**Stormwater Change of Information and Notice of Intent Submittals**

Dear Mr. Melbourn:

I called you last Friday to brief you on San Diego Gas & Electric Company's ("SDG&E's") understanding of three construction stormwater permitting filings that J.R.M.C. Real Estate, Inc. ("JRMC") has submitted or will submit to the State Water Resources Control Board ("SWRCB"). These three filings consist of a Change of Information ("COI") and two SWRCB Construction Stormwater Permit (Order 99-08-DWQ) Notices of Intent ("NOI"). The filings affect three properties that SDG&E owns in fee and one property in which SDG&E holds an easement interest (JRMC owns the underlying fee interest in the fourth property) (together, the "SDG&E Properties"). You were out of the office when I called. Therefore, I briefed Art Coe on the filings. This letter summarizes my discussion with Art Coe.

JRMC is developing a business park (i.e., Escondido Research and Technology Center) in Escondido, California (the "JRMC Project"). The JRMC Project is located between Vineyard Avenue, Andreasen Drive, Harmony Grove Road, and Oak View Way and is adjacent to the SDG&E Properties. In 2003, JRMC asked SDG&E for permission to conduct certain grading and other construction activities on the SDG&E Properties to facilitate JRMC's development of the JRMC Project. To be clear, the construction activities that JRMC wished to conduct on the SDG&E Properties were for JRMC's benefit, not SDG&E's.

SDG&E and JRMC entered into a Letter of Permission, which allows JRMC to enter SDG&E's Property for JRMC's construction activities (grading and construction of improvements). Among other things, the Letter of Permission requires that JRMC shall be solely responsible for the construction activities on the SDG&E Properties and shall comply with all applicable federal, state and local laws and regulations, including construction stormwater permitting and erosion control requirements.

**JRMC Development in Escondido, California**  
**Stormwater Change of Information and Notice of Intent Submittals**

In January 2003, JRMC submitted an NOI for the JRMC Project. The NOI and the associated construction stormwater permit ( "JRMC's Original Permit") covered all properties that the JRMC Project would affect, including all construction activities on the SDG&E Properties. JRMC filed the NOI pursuant to the Order's Fact Sheet, which says that the entity responsible for construction activity (in this case, JRMC) is the appropriate permittee for activities done by permission or agreement on easements or adjacent properties that are owned by a third party.

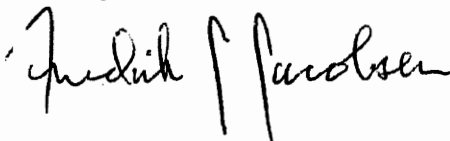
On August 8, 2005, JRMC submitted a COI to the SWRCB without SDG&E's prior knowledge. The COI attempts to exclude the SDG&E Properties from JRMC's Original Permit. When SDG&E received a copy of the filed COI, SDG&E immediately contacted JRMC to inform JRMC that it would be inappropriate under federal and state laws and regulations, and under the Letter of Permission between SDG&E and JRMC, for JRMC to terminate construction stormwater permit coverage as to the SDG&E Properties. SDG&E also advised JRMC that it disagreed with the COI statement that JRMC does not have adequate control over the SDG&E Properties to implement stormwater best management practices ("BMPs") on such properties. In particular, the Letter of Permission expressly requires JRMC to develop and implement BMPs on the SDG&E Properties and gives JRMC adequate access to and control over the SDG&E Properties to satisfy this contractual obligation.

JRMC agreed that it would continue maintaining and implementing a construction stormwater permit and storm water pollution prevention plan ("SWPPP") for the SDG&E Properties. However, JRMC advised SDG&E that it wished to remove the SDG&E Properties from JRMC's Original Permit and to obtain new stand-alone construction stormwater permits for the SDG&E Properties. JRMC agreed that JRMC would be the permittee as to these separate permits. Our understanding is that JRMC views its filing of the COI as the first step to achieving its objective of separate permits. The second step to achieving the objective is the filing of new NOIs for the SDG&E Properties. Our understanding is that JRMC will file new NOIs for the SDG&E Properties by close of business today.

In summary, JRMC will continue to serve as the permittee and responsible party for construction stormwater requirements arising in connection with the SDG&E Properties. However, JRMC will satisfy this requirement by moving the SDG&E Properties out of JRMC's Original Permit and into two new construction stormwater permits that are specific to the SDG&E Properties and for which JRMC will be the permittee. JRMC is accomplishing this permitting arrangement by filing the COI and two new NOIs.

If you have any questions regarding this information, please contact me at (858) 637-3723 or Lisa Gomez at (619) 699-5194.

Sincerely,



Fredrik J. Jacobsen  
Principal Environmental Specialist, Water Quality

cc: Mr. Art Coe (RWQCB)  
SWRCB Construction Stormwater Permitting Unit Supervisor

## Frank Melbourn - Settlement

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**From:** "marknrodriguez" <marknrodriguez@cox.net>  
**To:** "Frank Melbourn" <FMelbourn@waterboards.ca.gov>  
**Date:** 9/4/2005 8:06 PM  
**Subject:** Settlement

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**Item No. 9**  
**Doc. 8**

Frank,

Item 5 on the background submitted by Foley & Lardner LLP indicate that only portions of the ERTC site will be brought into substantial conformity.

What portions are they talking about and why not all?

Mark

**Frank Melbourn - Re: JRMC's settlement offer...**

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**Item No. 9**  
**Doc. 9**

**From:** "James Berbrich" <busyberbs@cox.net>  
**To:** "Frank T Melbourn" <fmelbourn@waterboards.ca.gov>, <cjsgrm@cox.net>, <davidbuckley@cox.net>, "marknrodriguez" <marknrodriguez@cox.net>, <morrilldacal@cox.net>, <pjladerman@cox.net>, <lpedro@dfg.ca.gov>, <cbruins@energy.state.ca.us>, <rlatteri@energy.state.ca.us>, <gsmith@escondidocreek.org>, <lbrendis@hotmail.com>, <Klavzars@ifriendly.com>, <DFried@nctimes.com>, <ks@raveontech.com>, <kate.flaherty@sdca.org>, <tjennings@sempra-res.com>, <fjacobsen@semprautilities.com>, <craig.gustafson@uniontrib.com>  
**Date:** 9/6/2005 12:27 AM  
**Subject:** Re: JRMC's settlement offer...

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To all concerned,

I suggest you not accept JRMC's settlement offer until you see if they comply with a San Diego Superior Court decision to pay me \$2314 for damages sustained to my home in January, 2005. If JRMC doesn't act responsibly and pay within 30 days of 8/19/2005, they probably won't abide by their revised settlement agreement either.

Just a thought!  
James Berbrich